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In the Supreme Court of the United States

OCTOBER TERM, 1964.

No. 579.

ST. LUKE'S HOSPITAL ASSOCIATION OF CLEVELAND, OHIO, OF THE METHODIST CHURCH,
a non-profit corporation,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

BRIEF OF OHIO HOSPITAL ASSOCIATION AS AMICUS CURIAE.

INTRODUCTION AND INTEREST OF AMICUS CURIAE.

The written consent of counsel for the petitioner and respondent to the filing of this brief *amicus curiae* has been obtained and filed in letter form with the Clerk of the Court.

The Ohio Hospital Association is incorporated under the laws of Ohio as a non-profit, educational corporation. Its membership consists of 214 hospitals located throughout Ohio. The purpose of the Ohio Hospital Association is to promote the welfare of the people of this state by helping to provide hospital and related health service institutions of the highest possible quality.

The interest of the Ohio Hospital Association in this case arises from the fact that many of its member hospitals, in addition to providing facilities for patient care,

conduct programs of in-hospital training for medical school graduates which are similar to the program maintained by the petitioner.

The current financial burden resulting from the decision of the United States Court of Appeals for the Sixth Circuit upon both the member hospitals and their residents-in-training is substantial. Moreover, potential liabilities exist for several past years. In some cases claims for refund have been filed annually on behalf of member hospitals seeking recovery of Social Security employment taxes collected by the government with respect to residents-in-training. In other cases liabilities for past years have been held in abeyance pending final disposition of this case by the Supreme Court.

The budgetary and over-all financial interests of the member hospitals are vitally affected by the questions raised by petitioner. It is in their behalf that this *amicus* brief is respectfully submitted.

SUMMARY OF ARGUMENT.

In agreement with the arguments advanced by the petitioner in its Petition for Certiorari, the Ohio Hospital Association submits that the United States Court of Appeals for the Sixth Circuit committed manifest and prejudicial error in reversing the decision of the District Court. Therefore, it seems unnecessary to repeat such arguments herein. However, *amicus curiae* feels that further emphasis must be placed upon the importance of the question presented to this Court by the Petition for Certiorari and the widespread effect that this Court's review of the question will have upon hospitals and residents-in-training throughout the country.

REASONS FOR GRANTING THE WRIT.

The scope and impact of the issues brought before the Court in this case are nation-wide. Petitioner accurately observed that the correct interpretation of Int. Rev. Code of 1954, § 3121(b)(13) is of great importance to all hospitals throughout the United States and to large numbers of medical school graduates who are and will be engaged in programs of in-hospital training.

The American Medical Association Directory Report Service provides quarterly tables of physicians' population in the United States by state and county, specialty, age and area of professional interest. This Directory lists 8,646 interns and 25,421 residents in hospital service, exclusive of physicians in the service of the United States, physicians who are temporarily out of the country and physicians whose addresses are temporarily unknown. The figure given for residents represents an increase of nearly 10,000 doctors in this category since 1953. Continued growth and expansion of residency programs is not

only to be anticipated, but is absolutely essential to the health and welfare of the country.

Members of the Ohio Hospital Association provided facilities for the training of 553 interns and 1,601 residents in 1964. In this state alone, residents-in-training represent 13% of all active physicians.

Contrary to the representations contained in correspondence submitted to the United States Court of Appeals by counsel for the respondent (Petition for Certiorari, App. p. 49) which indicated that "40% of the nation's working physicians are already on the active rolls," only 17% of the nation's active physicians, excluding interns and residents-in-training, are currently entitled to full participation in the Social Security Program. In Ohio, only 16% of the physicians are engaged in some form of salaried practice which makes them currently eligible for Social Security retirement benefits. Furthermore, a recent survey conducted by the Ohio Hospital Association established that during the five years preceding June 1, 1964, the family of only one resident-in-training received Social Security death benefits. To cover this rare instance members of the Ohio Hospital Association and their residents-in-training have been assessed approximately $2,275,000.00 during the same five year period. During the past 10 years assessments have amounted to nearly $4,000,000.00. These tremendous expenditures must be evaluated in light of the fact that many hospitals carry adequate group insurance policies in order to provide substantial death benefits in case of the death of any of their interns or residents.

The widespread interest and concern in the outcome of this case and its ultimate effect on the ever increasing cost of hospital care is further evidenced by a recent article

appearing in a national magazine in which Thomas D. Griffiths, Executive Director of the Cleveland Hospital Council, was quoted as saying:

> "The doctor is being taken advantage of, and the hospital is being asked to contribute needed funds to no purpose. We oppose the Social Security Administration's attempt to take great gulps of hospitals' and doctors' funds without having to face the prospect of returning the bulk of these funds as benefits at some later date." [1]

CONCLUSION.

This case merits final review by the Supreme Court since it presents questions of great importance to hospitals and residents-in-training throughout the country involving the interpretation and application of the Social Security Laws. It is therefore urged that the Petition for Writ of Certiorari be granted.

Respectfully submitted,

CHARLES E. CONNOR,
Counsel for Amicus Curiae.

CONNOR, CONNOR & BENNETT,
Of Counsel.

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[1] *Riss*, Oct., 1964, pp. 121, 122.